

# Civil Rights

## Overview

Maintaining a civil rights process and having annual training on civil rights is a United States Department of Agriculture (USDA) mandated regulation for Child Nutrition Programs (CNP). This section focuses on broad USDA civil rights requirements as well as specifics pertaining to the National School Lunch Program (NSLP), School Breakfast Program (SBP), Special Milk Program (SMP), and After School Snack Program (ASSP).

Understanding civil rights involves training on the following topics:

- Purpose
- Training requirements
- Describe/define discrimination
- Protected classes
- Collections and use of data
- Public notification systems
- Long and short statements
- Complaint procedure
- Compliance review and resolution
- Requirements for reasonable accommodations for those with disabilities and language assistance
- Conflict resolution
- Customer service

Please see the Idaho State Department of Education Civil Rights webpage for an in depth video training module that discusses the above listed topics.

## Terminology

Complaint procedure - USDA defined procedure for handling discrimination complaints. A copy of the **procedure**, complaint **log** and complaint **forms** must be on file at all sites operating Child Nutrition Programs.

Civil Rights - Includes processes that ensure program recipients are being treated without discrimination while participating in Child Nutrition Programs; the benefits of Child Nutrition Programs must be made available to all eligible people in a non-discriminatory manner.

Discrimination - Different treatment of one person or a group of persons either intentionally, by neglect or by the effect of actions or lack of actions based on Race, Color, National Origin, Age, Disability, or Sex. This includes **denied** benefits or services that others receive, **delayed** receiving benefits or services that others receive, or being treated **differently** than others to their disadvantage.

Disability - A person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. "Physical or mental" impairment includes many diseases and conditions.

Overt identification - Any action that may result in a child being recognized as potentially eligible to receive or certified to receive free or reduced price school meals.

Ethnic categories - Includes 'Not Hispanic or Latino' and 'Hispanic or Latino.'

Non-discrimination statement - USDA statement that must be present on all publications and media announcements mentioning USDA Child Nutrition Programs. The *long* non-discrimination statement must be listed on all printed material over one page in length. The *short* non-discrimination statement may be used on printed materials that are only one page or one sheet of paper (including front and back) in length.

Protected classes - The protected classes recognized by the USDA include Race, Color, National Origin, Age, Sex, and Disability.

Public notification systems - The means by which sponsors make public, via public announcement, their program availability. This is a USDA requirement.

Racial Categories - Include 'Black or African American,' 'White,' 'Asian,' 'Native Hawaiian or Other Pacific Islander,' and 'American Indian or Alaskan Native.'

### **What are Civil Rights?**

Civil rights involve ensuring compliance with all applicable laws, regulations, and policies for Food and Nutrition Service (FNS) customers and employees regardless of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, protected genetic information, or because all or part of an individual's income is derived from any public assistance program. Civil rights also ensure equal and timely access to all FNS programs and services for all customers. Note that the protected classes that apply specifically to FNS nutritional assistance programs are race, color, national origin, age, sex, and disability.

Any School Food Authority (SFA) administering the NSLP, SBP, SMP and/or ASSP has specific responsibilities related to civil rights. Brief descriptions of these responsibilities are listed below. Please visit the Additional Resources section of the guide (link at bottom of this section) for further information.

#### *Training*

Annual training must be provided to all food and nutrition staff, including "frontline staff," supervisors, administrators, and any other staff involved in the implementation and monitoring of any Child Nutrition Programs. An agenda and attendance sheet from the training are required to be on file and will be reviewed by the State agency (SA) during an Administrative Review. See the Idaho State Department of Education, Child Nutrition Program Civil Rights webpage for an in depth video training module as well as a training agenda and a sign in sheet available for download.

#### *Complaint Procedure, Form and Annual Log*

A copy of the complaint procedure (may be in the form of a district civil rights policy), complaint forms (in both English and Spanish, if appropriate), and an annual complaint log must be available at each

participating site (kitchen) and at the main Child Nutrition Program office. All these items should be kept in a designated civil rights binder or file at each site. The complaint procedure, a sample complaint form, and complaint log can be found on the State Department of Education Civil Rights webpage.

Information in the civil rights binder/file must be **annually updated** and maintained for **three years plus the current year**.

The steps in a civil rights complaint procedure are as follows: Any person alleging discrimination based on a protected class has the right to file a complaint within **180 days** of the discriminatory action. All complaints must be documented on the complaint log and the information forwarded to the State agency within **three days**. If a person makes a verbal complaint and refused or is not inclined to place allegations in writing, the person to whom the allegations are made must write up the complaint and forward to the State agency within **three days**.

#### *Racial and Ethnic Data*

SFAs are required to maintain and report racial and ethnic data of program participants annually. This data is reported during the annual NSLP renewal process. Public schools are required to report racial and ethnic data in the Idaho System for Educational Excellence (ISEE) data system; SFAs at public schools should request the ISEE racial and ethnic data from their district office to input into the NSLP renewal application. Schools must keep racial and ethnic data on file for **three years plus the current year**.

#### *Reasonable Accommodations for those with Disabilities and Language Assistance Needs*

Reasonable accommodations must be made for persons with disabilities. Examples of reasonable accommodations include providing wheel chair ramps to access the food service area or making menu substitutions for those with food allergies. Note there is a difference between a life-threatening food allergy and a food intolerance. A food intolerance is not a disability and therefore the SFA is not required to accommodate intolerances. Please see the section titled *Special Dietary Needs* of this resource guide for more information on allergies versus intolerances.

Provisions must be made for non-English speaking program participants. For example, Free and Reduced Applications or menus may need to be translated into the appropriate language for areas with non-English speaking communities. Providing braille or large print documents for visually impaired participants are other examples of language assistance.

Notice of provision of reasonable accommodations and language assistance must be included in the notification letters to families about the school nutrition programs.

#### *Public Notification*

All programs must contain a public notification system. The purpose of the system is to inform applicants, participants, and potentially eligible persons of the program availability, program rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint. The public notification system, at the minimum must include:

- Information about what FNS programs are available
- Complaint information about the right to file, how to file, and the procedure for filing complaints

- The nondiscrimination statement on all materials and sources used to inform the public, including websites

Actions must be taken to inform the general public, potentially eligible populations, community leaders, grassroots organizations, and referral sources about FNS programs. At the minimum, the below methods must be used:

- Prominently display the USDA nondiscrimination “And Justice for All” poster in all areas where reimbursable meals are served, where payments are accepted, and in the main office. If food is served in multiple locations, (e.g., breakfast in the classroom), a poster should be placed in the front entryway of the site, visible to all persons who enter the building.
- Communicate to the public, particularly those in underserved populations, new programs or changes in programs. Include information pertaining to eligibility, benefits, services, the location of facilities, and hours of service. This information can be communicated by methods such as Internet, newspaper articles, radio and television announcements, letters, leaflets, brochures, computer-based applications, and bulletins. The State agency provides a template that may be used for public notification.
- Information must be provided in alternate formats for persons with disabilities.
- The nondiscrimination statement must be used on all publications, Web-based information, etc.
- The message of equal opportunity must be conveyed in all photographic and other graphics used to provide program information.

### *Confidentiality*

Maintaining the confidentiality of a child’s free, reduced or paid status is of the highest importance. And there may be no discrimination or different treatment of children receiving free or reduced price meal benefits. The following must be adhered to at all times:

- The names of children cannot be published, posted, or announced in any manner or used for any purposes other than determining and verifying eligibility for free and reduced price meals.
- Children cannot be required to work for their meals.
- Children cannot be required to use a separate dining room, separate serving line, or separate serving time based on their eligibility status.

The above examples would allow “overt identification” of students who receive free or reduced price benefits. Overt identification can be a challenge at the Point of Service (POS), as children may need to provide money and/or a fund balance may be visible on a computer screen if an electronic POS system is being used. Schools must ensure to the maximum extent practicable, that the method of payment or POS system does not result in children being inadvertently identified as receiving free or reduced price meal benefits.

### *Disclosure of Eligibility Determination*

Children’s free and reduced price meal eligibility information may be disclosed to programs, activities and individuals that are specifically authorized access under the National School Lunch Act (NSLA). See *Section 7: Confidentiality/Disclosure* in the *Eligibility Manual for School Meals 2014* for more information and a listing of authorized recipients and what may be disclosed regarding a child’s eligibility status.

Distribution and processing Free and Reduced meal applications *solely for information about household income* to determine the funding or benefits for programs other than school meal programs is not permitted. Multi-use applications can be provided to households in order to obtain both meal program benefits as well as non-meal benefits but the process must allow submission of an application exclusively for meal benefits.

There must be a legitimate “need to know” in regards to who has access to student data. Even if a program or person is authorized to view or receive free and reduced price eligibility information, access must be limited to individuals directly connected with administration or enforcement of a federal or state program or activity.

#### *Waiver/Consent Statement*

Children’s parents or guardians may provide consent for the disclosure of any or all the information related to their children’s eligibility status or the information the household provided through the free and reduced price meal eligibility process. A disclosure of all eligibility information to any other federal, state or local program or individual not included in the NSLA requires parental consent. The disclosure of information *other than* names and eligibility status to the programs *authorized only* to receive participants’ names and eligibility status also requires written consent from the parents. See *Section 7: Confidentiality/Disclosure* in the *Eligibility Manual for School Meals*, available in the Additional Resources section of this guide, for more information on parental consent and consent statement requirements.

#### **Why is Civil Rights Important?**

Civil Rights requirements allow the USDA to ensure that Child Nutrition Program participants are free from discrimination. Civil rights ensure participants are provided equal access to program benefits and that all participants are treated equally based on the six protected classes. The annual collection and reporting of race and ethnic data allows for the evaluation of how effectively FNS programs are reaching potential eligible persons and beneficiaries, identify areas where additional outreach is needed, assist in the selection of locations for compliance reviews, and complete reports as required.

#### **Resources**

Additional resources may be available for this topic. Please check the Idaho School Nutrition Reference Guide website for copies of manuals, user guides and helpful links to relevant subject matter.